

15 December 2015

Policy, Finance and Resources Committee

Hutton Community Centre letting

Report of: *Kim Anderson, Partnership, Leisure and Funding Manager*

Wards Affected: *All wards*

This report is: *Public*

1. Executive Summary

- 1.1. The report considers the response to Expressions of Interest received from organisations interested in taking a lease on the Hutton Community Centre.

2. Recommendation

- 2.1 That delegated authority be granted to the Head of Paid Service, Section 151 Officer in consultation with the Chair of Policy, Finance and Resources to negotiate the terms of lease on Hutton Community Centre.**

3. Introduction and Background

- 3.1 Members will recall the decision of 5 June 2013 Community Services Committee where members considered a phased approach to the reopening of Hutton Community Centre. Those phases were:
- Phase 1 – Building repaired/rebuilt (if a cheaper and better option) open and being run by the Council;
 - Phase 2 – Development of a community based organisation to run the Centre;
 - Phase 3- Lease of the Centre to an independent organisation.
- 3.2 The criteria set out before Members consisted of the following:
- That the primary usage will be a balance between community and sports use;
 - That there should also be a balance between fee paying and drop-in use (to be looked at as part of the process of developing the business

case);

- A cafe will be provided and space will be made available to provide a limited bar facility but the views of the public will be sought on this;
- The Centre needs to be sustainable in each phase;
- Facilities Management arrangements will need to be put in place;
- That the Council will look after the structure and the exterior of the building whilst it is running the Centre.

- 3.3 The 6 November 2013 Performance and Resources Board agreed to accept the tender for the renovation works to the Centre. The Committee requested a detailed budget, including a summary narrative for approval by the Community Services Committee.
- 3.4 The 26 February 2014 Community Services Committee considered a report concerning the detailed budget and business plan from the Community Group working with the Council. Members reaffirmed that the Community Centre was a community based facility which the Council in partnership with the local community would manage for the first year as part of the phased approach to the community running the Centre independent of the Council. In addition, reassurance was given that Council Members would form part of the management committee supported by offices and that the Council would monitor the Centre's finances closely.
- 3.5 At the 18 November 2014 Asset and Enterprise recommended that officers would actively publicise the availability of the property to lease to community groups, to test the response received and then report back to committee with the proposals received to determine the proposal for the Council, the property and the Community.
- 3.6 At the 18 February 2015 Asset and Enterprise Committee Members agreed that delegated authority be granted to the Strategic Asset Manager after consultation with the Chair of Asset and Enterprise Committee to negotiate and enter into a lease of Hutton Community Centre with Essex Boys and Girls Clubs
- 3.7 This decision of the 18 February 2015 Asset and Enterprise Committee was called in and it was resolved at the Audit and Scrutiny Committee on 9 March 2015 that the decision by the 18 February 2015 Asset and Enterprise Committee would be implemented without further delay.
- 3.8 A nomination was received by Hutton Community Partnership in relation to Hutton Community Centre to list the land as an Asset of Community

Value. At the 25 March 2015 Community and Health Committee Members agreed to list the land as an Asset of Community Value.

- 3.9 Negotiations subsequently failed with the Essex Boys and Girls Clubs to result in the grant of a lease and so the matter was brought back to 30 June 2015 Policy, Finance and Resource Committee where it was resolved that an external valuation of Hutton Community Centre be carried out to determine the current open market rental that could be expected; the process for seeking bids for a lease of Hutton Community Centre to be carried out in accordance with the process set out in the report; and that those bids received be considered by a future meeting of the Policy, Finance and Resources Committee.
- 3.10 At the 2 November 2015 Policy, Finance and Resources Committee it was agreed by Members that they would consider a lease of Hutton Community Centre for a term in excess of 7 years.
- 3.11 In order for the Council to consider best value for the Centre in both financial and community terms, the Council would need to seek bids for the site.
- 3.12 For any lease on the property the Council will need to consider the basis upon which a new lease will be entered into. Any lease greater than 7 years will need to be on a best consideration basis to satisfy section 123 of the Local Government Act 1972 (s123(s)) "Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can be reasonably obtained". A short tenancy is defined in section 123 (7) of that Act if it consists "... (a) of the grant of a term not exceeding 7 years, or (b) of the assignment of a term which at the date of the assignment has not more than 7 years to run...".
- 3.13 In order to gain best value the Council would need to place the property on the market and seek bids from prospective organisations and provide a lease with the person or organisation that provides a balance between both the best rental income and community use.
- 3.14 To ensure compliance with the best value requirement any lease on the property should be subject to rent reviews in the 3rd and 6th year of the contractual term and in the event of a longer term being granted subsequent reviews to be added at three yearly intervals.
- 3.15 In order to provide a lease of less than best consideration the Council would need to follow the advice given in Circular 06/03 Local Government

Act 1972 General Disposal Consent (England) 2003- disposal of land for less than best consideration that can be reasonably received. In such cases a valuation of the property by a Chartered Surveyor will need to be obtained taking into account the requirements of the RICS Appraisal and Valuation Standards (Fifth Edition). Leases in this respect would be 7 years or less than 7 years duration.

3.16 If the Committee considers a lease of more than 7 years, and an offer of below market rental value is submitted then the Council has to have regard to the estimate of social value that will be provided. This has been provided by one of the bidders.

3.17 There is also an element of social value in the other application which has not been quantified by officers as they have submitted a bid at full market rental value.

4. Issue, Options and Analysis of Options

4.1 In line with the 30 June 2015 Policy, Finance and Resources Committee's instruction to re-advertise the availability of a lease for Hutton Community Centre, the Council placed a public notice in the Brentwood Gazette and also wrote to all existing users of the Hutton Community Centre as well as those organisations known to have an interest in the Centre.

4.2 A Public Notice was placed in the press during the week beginning 5 October 2015 and direct emails were sent out to all existing Centre users as well as known interested parties.

4.3 A bidders open day took place at Hutton Community Centre on 16 October 2015 to enable any interested parties to visit the Centre and collect an information pack.

4.4 The information pack included a location plan, condition of the property, current planning use, proposed use, current business rates, market rental value (as per an external valuation undertaken by Mass & Co) and EPC rating. It also included the Assessment Form that officers would use to assess each bids received.

4.5 The Assessment Form looked at the following elements, the proposed use of the property (weighted at 30% of the overall score); Deliverability (the applicants experience to deliver the services weighted 28% of the overall score); the Financial Offer (weighted 20% of the overall score); The organisations Financial position (weighted at 17% of the overall score);

and the Legal Process to be able to agree the Heads of Terms of Lease (weighted at 5% of the overall score).

- 4.6 It was agreed at the 30 June Policy, Finance and Resources Committee that the evaluation of the bids would be on the basis of the best rental return to the Council with the term requested, balanced with evidence that the bid is from a constituted group representing interests from across the community and which the Council feels is sufficiently robust to provide a secure future for the centre. Strong links with the local community and a clear plan for engagement with local residents, businesses, charities, volunteer organisations and local establishments such as churches and schools must be evidenced.
- 4.7 Bidders were instructed to provide any further questions to the huttonccletting@brentwood.gov.uk email address by 21 October if they required any further clarification or information prior to their bids being submitted by the deadline 2 November 2015.
- 4.8 A summary of the frequently asked questions (Appendix A - exempt) that were submitted was circulated to all interested parties on 23 October 2015.
- 4.9 The Council received two valid bids to operate and manage Hutton Community Centre, Hutton Community Centre Charitable Incorporated Organisation (HCC CIO) and Beyond Youth Community Interest Company (CIC).
- 4.10 Brentwood Leisure Trust did submit a bid but it was submitted outside of the deadline. An officer of the Council contacted them by email on 9 November 2015 to inform them that their bid was too late and could not be included in the process.
- 4.11 Hutton Community Centre Charitable Incorporated Organisation (HCC CIO) is a newly formed charity which has been created solely for the purpose of running Hutton Community Centre. It is composed of long standing residents, groups and organisations who are committed to running Hutton Community Centre for the benefit of local people. HCC CIO has created a formal partnership with a number of local organisations which include Lighthouse Project, Hutton All Saints School, the Brentwood Grace Centre, Hutton Football Club, Hope Community Church, and the Hutton Community Partnership. The partners have signed a Memorandum of Understanding and accompanying financial commitments.

- 4.12 Beyond Youth Community Interest Company (CIC) is a Community Interest Company which has been established for 10 years. Its mission is to equip people of all ages with the tools and understanding needed to lead productive lives as part of their communities. They aim to provide hope for the future by empowering people in positive decision making, building self-belief and encouraging all those involved to accept their social responsibility to create stronger individuals and communities. The organisation focuses on outreach and intervention work. Beyond Youth CIC have offices, therapy rooms and a community group/training space at Whitegates Busines Centre in Shenfield. The majority of their services have been delivered from these existing premises but they are in the process of pursuing another dedicated space to operate further community activities. They are very keen to work with the local community and develop services around the needs of that community. They are also keen to work with the existing groups currently utilising the Centre to create some security going forward.
- 4.13 On the receipt of these bids a panel of officers undertook an assessment of each of the bids which are appended to this report in Appendix B (exempt) and Appendix C (exempt). Some further clarification was required from both organisations, together with some further supplementary information requested from the Council's Finance department which is also included in the attached assessment.
- 4.14 A summary of both bids is appended to this report in Appendix D (exempt).
- 4.15 During the course of the bid process officers met with representatives of both organisations to ascertain whether they would be wiliness to work in partnership with another local Brentwood organisation to develop Hutton Community Centre. The feedback was positive from both bidders and there could be strengths of partnership working to increase the community offer, whilst providing stability and additional financial sustainability for the Centre. Any partnership agreement would need to clearly identify defined roles and responsibilities for both partners, and Brentwood Borough Council will also need to consider that in any partnership arrangement there will need to be a lead organisation who will take a lease of the Centre and be ultimately be responsible for the building on a full repairing and insuring basis.

5. Reasons for Recommendation

- 5.1 An assessment of the two bidders was undertaken by officers to determine the best options for the Council ensuring that Hutton

Community Centre continues to deliver broad community use, expanding what is currently being delivered and that this will be sustainable in the long term.

6. References to Corporate Plan

- 6.1 The handing over of Hutton Community Centre to a community organisation supports the Localism strand in the Corporate Plan and also delivering best value to the Council's residents.

7. Implications

Financial Implications

Name & Title: Christopher Leslie, Finance Director

Tel & Email 01277 312542 / christopher.leslie@brentwood.gov.uk

- 7.1 The current annual cost to the Council in supporting the operation at Hutton Community Centre equates to approximately £15,000. This includes direct costs such as salaries for 1.4 FTE staff and business rates but does not include overheads.
- 7.2 Members will need to note the varying financial implications which have been identified within the relevant business plans and as part of the officer assessment.
- 7.3 If the Council enters into a lease of less than market rental value, then Members need to take into account the amount of community value that an organisation will bring, but also the subsequent in kind support that the council will provide to that organisation.

8.0 Legal Implications

Name & Title: Daniel Toohey, Head of Legal Services

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- 8.1 The proposed lease will constitute a disposal of property interest in relation to which the Council is empowered to act under s123 of the Local Government Act (LGA) 1972. Under this section, the Council may dispose of interests in land, provided it secures the best consideration reasonably obtainable, which includes ethical as well as commercial consideration. In the event that the disposal is for an amount less than market value, it may be sufficient if there is suitable social or economic benefit for the local community.
- 8.2 Because of the history of this matter, involving the surrender of lease by the previous de-registered charitable trust/tenant, officers have sought the view of the Charity Commission who have requested that any final choice by the Committee to dispose should be expressed as subject to the approval of the Charity Commission if it involves a significant departure from the original charitable objects. However the Council has taken Counsel's opinion on this matter and the opinion is such an approval is

not required but rather that it would be prudent to inform the Commission once the decision is taken, and to ensure that any future claims are covered with suitable indemnity/insurance. Accordingly this action should be undertaken once the disposal has occurred.

- 9.0 Risk Management implications** – If the organisation cannot deliver the Community values or achieve the projected income to make the Centre sustainable there is a possible reputational risk to the Council.
- 10. Asset management Implications** – the length of lease will need to allow for the Council to maintain flexibility and management of the building if it is not maintained to the standards as set out in the Heads of Terms of lease.
- 10.1 Assets of Community Value - Any relevant disposal of the land in question (i.e. a lease of more than 25 years) would be deemed to be relevant disposal of the Asset under the Localism Act 2012, as Hutton Community Centre is on the Council's list of Community Assets Register.
- 11. Appendices to this report – Not for publication - Exempt under Schedule 12A to the Local Government Act 1972 – relating to Information relating to the financial or business affairs of any particular person (including the authority holding that information).**
- Appendix A – Exempt - Frequently asked questions
Appendix B – Exempt - Officer assessment of Bidder 1 – Hutton Community Centre Charitable Incorporated Organisation
Appendix C – Exempt - Officer assessment of Bidder 2 – Beyond Youth CIC
Appendix D – Exempt - Summary of both bidders
- 12. Background documents - Not for publication - Exempt under Schedule 12A to the Local Government Act 1972 – relating to Information relating to the financial or business affairs of any particular person (including the authority holding that information).**
- Counsel Advice
 - Brentwood Borough Council Discretionary Rate Relief Policy
 - Information Pack for Hutton Community Centre
 - Hutton Community Centre CIO submission and supplementary information submitted.
 - Beyond Youth CIC submission and supplementary information submitted

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